IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

Bail Appl..No. 7586 of 2007()

CRIME NO.611/05 OF MATHILAKAM POLICE STATION

.....

PETITIONER/2ND ACCUSED

SHIJOY, AGED 32 YEARS, S/O. LAKSHMANAN,
PANAPPARAMBIL HOUSE, PERINJANAM P.O.,
KODUNGALLUR TALUK, THRISSUR DISTRICT,
KERALA - 680 686.

BY ADV. SRI.BABU KARUKAPADATH

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
SUB-INSPECTOR OF POLICE, MATHILAKAM THROUGH
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.7586 of 2007

Dated this the 7th day of December 2007

O R D E R

Application for anticipatory bail. The petitioner faces indictment in a prosecution for offences punishable inter alia under Section 498A I.P.C. Crime was registered in 2005. Final report was filed and cognizance was taken also in 2005. The petitioner was not available in India. The learned counsel for the petitioner points out that the crime was registered on a day after the petitioner left India. The petitioner continues to be employed abroad. He is coming to India by the end of this month. Reckoning him as an absconding accused, coercive processes have been issued against the petitioner by the learned Magistrate. The petitioner finds such processes chasing the petitioner. He apprehends imminent arrest as soon as he returns to India.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful or deliberate. He has no knowledge of the prosecution initiated against him. The petitioner is willing to surrender

before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this bail application is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving

sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. The learned counsel for the petitioner submits that the petitioner shall be reaching India on 30/12/2007. In the peculiar facts and circumstances of this case I am satisfied that the warrant of arrest issued against the petitioner by the learned Magistrate shall not be executed till 07/01/2008. On or before that date, the petitioner must surrender before the learned Magistrate and seek regular bail.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007